

STATE OF MAINE/STATE PLANNING OFFICE

Determination of Public Benefit for Juniper Ridge Landfill Expansion

Department Order #S-020700-W5-AU-N

APPEAL – Edward S. Spencer

- **Appeal filed by Edward Spencer, dated February 29, 2012**

RE:

STATE OF MAINE, ACTING THROUGH THE)	PUBLIC BENEFIT
STATE PLANNING OFFICE)	DETERMINATION
OLD TOWN, PENOBSCOT COUNTY, MAINE)	
JUNIPER RIDGE LANDFILL EXPANSION)	
#S-020700-W5-AU-N)	PARTIAL APPROVAL
(APPROVAL WITH CONDITIONS))	

2/29/2012

Susan Lessard , BEP Chair
c/o Terry Dawson
#17 State House Station
Augusta, ME 04333-0017

Chair Lessard and members of the Maine Board of Environmental Protection:

This is an appeal of the Department Order of Partial Approval in the matter of the State Planning Office's Application for Public Benefits Determination for the Juniper Ridge Landfill Expansion, #S-020700-W5-AU-N.

My opposition to this Partial Approval of Public Benefits Determination is based on the fact that at this time there is no need for expansion to meet the "...immediate, short-term or long-term capacity needs of the State..." as defined in Section 3(A) of Public Benefit Determination Rules. The Commissioner states that there is no need for additional landfill capacity at this time, but then grants approval for an unreasonably large expansion.

This appeal agrees with almost all Department findings in this Order. My disagreement is with the Commissioner's conclusion that there is a need for expanded landfill capacity at this time is based largely on statements and findings of the Department. Reversing the approval of the Public Benefits Determination will allow for a much clearer and more comprehensive appraisal of Maine's waste disposal capacity needs.

Aggrieved Status:

As a resident of Old Town, if I was to petition my City Council and convince them that it is in Old Town's best interests to vote in opposition to the Expansion within our borders, as a taxpayer I would be penalized financially since Casella would withhold tip fee payments as enabled in our Host Community Agreement. Furthermore, on any given day I have to smell and hear the landfill at my residence and, when traveling in my community, be threatened by truck traffic going to the Landfill. I am prevented

from carrying out a portion of my timber harvesting plan on my land as it would make the landfill visible from my residence, and likewise from other potential house sites on my 120 wooded acres. Visiting my neighbor's farm is a great way to spend time in the country but the mountain of trash rising on the eastern horizon clearly has a negative effect on property values locally. I have previously been granted standing and appeared before the board in appeals regarding Juniper Ridge Landfill.

The basis of objections or challenge:

I base my objections to Commissioner Aho's action on statements made in the Department's Order. On Page 8, the Department defines the time periods involved. "Based upon these time frames, a reading of the overall statutory scheme as a whole and legislative intent, the Department has interpreted the solid waste laws to define immediate as 3 years, short-term as 5 years and long-term as 10 years for the purposes of evaluation of public benefit determination applications."

On page 19 of the Partial Approval: "Based on the foregoing figures and analysis, the Commissioner finds that, in the absence of additional capacity at Juniper Ridge Landfill, there is sufficient disposal capacity currently available for the amounts of CDD, special wastes and other wastes known to be generated in Maine and expected to be disposed in Maine landfills both in the immediate (3 years) and short-term (5 years) periods. The Commissioner further finds that there likely exists sufficient disposal capacity currently available for the amounts of CDD, special wastes and other wastes known to be generated in Maine and expected to be disposed in Maine landfills in the long term (10 years) period, provided the existing solid waste disposal options remain available and waste generation rates remain depressed."

Therefore, if there is no need for additional capacity at this time, the Department should deny Public Benefit Determination for any amount of expansion at this time. The key factor in not needing new capacity at this time is that "waste generation rates remain depressed." I shall offer the following reasons that waste generation in Maine shall not increase, if certain conditions are met. These circumstances are primarily contained in this Department Order.

The findings, conclusions, or conditions objected to or believed to be in error:

1. I disagree with the statement on page 19: "However, if the economy improves in the near term, the Department agrees with the applicant that waste generation is likely to increase." At this point I doubt you could find any economists who would agree that rapid recovery of the economy is imminent. We are technically out of recession, but any number of events nationally or internationally could lead us back into serious recession: European debt crisis, massive U.S. deficits and debt, and most recently higher fuel prices that threaten to remove any gains in consumer expendable income, to name a few. At some point, higher diesel fuel prices will restrict deliveries to JRL. I contend that we are beyond Peak Trash production regionally and nationally.

2. Even if the economy shows steady growth over the immediate, short and long terms, there are many solutions attainable that will result in lower waste volumes being deposited in Maine. The following possibilities are contained in the Department order of partial approval for Public Benefit Determination:

A. Page 19 "The Commissioner finds that the timing of an application to expand Juniper Ridge Landfill appears to be at least partly based upon terms of the OSA. The Commissioner further finds that the provision in the 2nd amendment to the OSA that encourages Casella to import CDD to be processed into CDD fuel for biomass boilers is outdated given current circumstances." Later in the same paragraph, "... the Commissioner recommends SPO and Casella amend the OSA to address the significant quantity of CDD imported into Maine under the terms of the OSA." This could greatly reduce CDD fuel residues from KTI, which at 200,000 tons in 2010 was a huge part of the total volume into JRL that year (700,000 tons).

B. Page 16 "...the Department recommends that the Maine Energy and Juniper Ridge landfill licenses be de-linked in the 9.35 cubic yard expansion license to limit only the amount of MSW bypass that can be accepted in expansion. The Department suggests this would minimize the frequent deliveries of MSW bypass from Maine Energy (37,561 total tons in 2010, and 22,305 total tons in 2011)." If the Department were to de-link these licenses soon, there would be less MSW coming to JRL.

C. Page 20 "The Commissioner finds that it is necessary and appropriate to establish a limit on the tonnage of OBW disposed in the expansion." If DEP were to impose limits on Oversized Bulky Wastes in the near future, this would save valuable landfill space.

D. Page 12 "The Department further comments that implementation of changes to 38MRSA 1310-N (5-A) which require, in part, the 'maximum extent practicable' standard be met is ongoing. Regulations for implementing the statute were adopted on July 20, 2010. Facilities have filed their interim reports, and the first demonstration of compliance with the statute is required with the annual reports to be filed by February 28, 2012." Full implementation should reduce the waste stream.

E. Page 23 "The applicant notes that the State Plan identifies the management and disposal of CDD as an area of continuing difficulty in Maine, and states that JRL received 145,488 tons of unprocessed CDD generated in Maine in 2010; 62% of this CDD is reported as being generated within 50 miles of the landfill. Landfill capacity for the waste is needed because it is not accepted at MSW incinerators, and cannot be recycled or reused without investment in equipment, labor, and sufficient land area for collection and processing of the CDD." What if there was a CDD processing facility located on the JRL site. Since the CDD is brought there in such volume, surely reductions are possible before landfilling, and would yield fines for daily cover and fuel for PERC that would not require imports from out of State.

3. There are currently bills in the Legislature and actions by the State Planning Office that would greatly reduce need for expanded capacity at the Juniper Ridge Landfill.

A. The SPO is issuing a Request for Proposals for an Owner, Operator, or Leaser of the Dolby Landfill in the Millinocket area. This is largely due to the State taking ownership of the Dolby Landfill to facilitate reopening of the local Mills. The State needs money to meet its remediation obligations at the site, and thinks that the RFP may lead to a funding source. This could substantially expand disposal capacity in Maine, and reduce pressure on JRL.

B. Possible expansion at Crossroads Landfill in Norridgewock. LD 879 would allow expansion efforts to proceed at this commercial facility owned by Waste Management Inc. The Governor's office is justifiably concerned that without expansion at other landfills, Casella would have a near monopoly on waste disposal in Maine.

C. LD 1278 would impose new fees on CDD and CDD fuel residues deposited at JRL. Currently almost all wastes deposited in Maine are subject to fees that support the State Waste Management Fund. At present there is no fee on CDD, but passage of this bill will change that and may lead to a decrease in materials going to JRL.

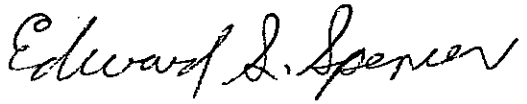
D. Restructuring of DEP and SPO. LD1458 would give oversight of Maine's Recycling programs to the Department. Under SPO, our recycling rates have been stagnant for years. Surely the Commissioner agrees that DEP can be a leader in improving recycling rates. This would further reduce the need for expansion at JRL.

E. OPEGA Review. There is currently a request sponsored by at least ten legislators and many citizens that OPEGA undertake a Review and Audit of the Juniper Ridge Landfill's history to date. If this request is granted, the Audit could yield much objective information which would add to DEP's knowledge upon which to base its findings, instead of having to rely on numbers and statements provided by Casella/SPO.

The Remedies Sought

1. I am asking that the Board reject the Commissioner's Partial Approval of the PBD at this time. When we look at the many possibilities for reducing need for Waste Space it is obviously premature to say that there is currently a need for Expansion at Juniper Ridge.
2. I request that the Board require the Department to move forward promptly on the actions recommended above (2.A through E).
3. The Board should also request that the Department re-examine the state's landfill capacity needs after this year's Legislative outcomes are known.
4. The Board should also ask DEP to delay finding of capacity need until the Dolby Landfill situation is known.
5. Lastly, but importantly, the Board should mandate DEP to help OPEGA in its Review and Audit, and should not approve Public Benefit Determination for Expansion until OPEGA can make its recommendations.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Edward S. Spencer". The signature is written in dark ink and is positioned above the printed name.

Edward S. Spencer

1140 Kirkland Rd.
Old Town, ME 04468 (physical address)

P.O. Box 12
Stillwater, ME 04489 (mailing address)

Phone: 207-827-8359

cjkspencer@gmail.com